
By: **Delegate Kach**

Introduced and read first time: February 7, 2003

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Continuation of Death Benefits - Wholly**
3 **Dependent Spouses - Partly Self-Supporting Spouses**

4 FOR the purpose of requiring an employer or insurer to continue to make payments to
5 a surviving spouse who was wholly dependent at the time of the covered
6 employee's death but who later becomes partly self-supporting; specifying
7 certain rates for determining a surviving spouse's benefits; and generally
8 relating to death benefits for wholly dependent spouses who become partly
9 self-supporting after the death of the covered employee under workers'
10 compensation.

11 BY repealing and reenacting, with amendments,
12 Article - Labor and Employment
13 Section 9-681
14 Annotated Code of Maryland
15 (1999 Replacement Volume and 2002 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article - Labor and Employment
18 Section 9-682
19 Annotated Code of Maryland
20 (1999 Replacement Volume and 2002 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Labor and Employment**

24 9-681.

25 (a) If there are individuals who were wholly dependent on a deceased covered
26 employee at the time of death resulting from an accidental personal injury or
27 occupational disease, the employer or its insurer shall pay death benefits in
28 accordance with this section.

1 (b) (1) Except as provided in paragraph (2) of this subsection, the death
2 benefit payable under this section shall equal two-thirds of the average weekly wage
3 of the deceased covered employee, but may not:

4 (i) exceed the State average weekly wage; or

5 (ii) be less than \$25.

6 (2) If the average weekly wage of the deceased covered employee was
7 less than \$25 at the time of the accidental personal injury or the last injurious
8 exposure to the hazards of the occupational disease, the weekly death benefit payable
9 under this section shall equal the average weekly wage of the deceased covered
10 employee.

11 (c) Except as otherwise provided in this section, the employer or its insurer
12 shall pay the weekly death benefit:

13 (1) for the period of total dependency; or

14 (2) until \$45,000 has been paid.

15 (d) If a surviving spouse who was wholly dependent at the time of death
16 continues to be wholly dependent after \$45,000 has been paid, the employer or its
17 insurer shall continue to make payments to the surviving spouse at the same weekly
18 rate during the total dependency of the surviving spouse.

19 (e) (1) If a surviving spouse who is wholly dependent at the time of death
20 becomes wholly [or partly] self-supporting before \$45,000 has been paid, the
21 employer or its insurer shall continue to pay death benefits until \$45,000 has been
22 paid.

23 (2) IF A SURVIVING SPOUSE WHO IS WHOLLY DEPENDENT AT THE TIME
24 OF DEATH BECOMES PARTLY SELF-SUPPORTING, THE EMPLOYER OR ITS INSURER
25 SHALL CONTINUE TO MAKE PAYMENTS TO THE SURVIVING SPOUSE:

26 (I) UNTIL \$45,000 HAS BEEN PAID, AT THE SAME WEEKLY RATE
27 THE SPOUSE WOULD BE PAID UNDER SUBSECTION (B) OF THIS SECTION, AS IF THE
28 SPOUSE WAS WHOLLY DEPENDENT; AND

29 (II) AFTER \$45,000 HAS BEEN PAID, AT THE SAME WEEKLY RATE
30 AND FOR THE SAME PERIOD OF TIME THAT THE SPOUSE WOULD BE PAID UNDER §
31 9-682(B), (C), AND (D) OF THIS SUBTITLE, AS IF THE SPOUSE HAD BEEN PARTLY
32 DEPENDENT ON THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH.

33 (f) (1) Except as provided in paragraph (2) of this subsection, if a surviving
34 spouse who is wholly dependent remarries, payment to the surviving spouse shall
35 stop on the date of remarriage, even if \$45,000 has not been paid.

36 (2) If a surviving spouse who is wholly dependent remarries and does not
37 have dependent children at the time of the remarriage, the employer or its insurer

1 shall continue to make payments to the surviving spouse for 2 years after the date of
2 the remarriage.

3 (g) If a surviving child continues to be wholly dependent after the total
4 amount of \$45,000 has been paid, the employer or its insurer shall continue to make
5 payments at the same weekly rate during the total dependency of the surviving child.

6 (h) Except as provided in subsection (i) of this section, if a child who is wholly
7 dependent at the time of death becomes wholly or partly self-supporting, the
8 employer or its insurer shall continue to pay death benefits until \$45,000 has been
9 paid.

10 (i) (1) Except as provided in paragraphs (2) and (3) of this subsection, the
11 employer or its insurer shall continue to make payments to, or for the benefit of, a
12 surviving child until the child reaches 18 years of age.

13 (2) The employer or its insurer shall continue to make payments to, or
14 for the benefit of, a child who is 18 years old or older for the period of dependency if:

15 (i) the child is wholly dependent on the deceased covered employee;
16 and

17 (ii) incapable of self-support because of mental or physical
18 disability or other sufficient reason as determined by the Commission.

19 (3) The employer or its insurer shall continue to make payments to, or
20 for the benefit of, a child who is 18 years old or older for up to 5 years after reaching
21 the age of 18 if:

22 (i) the child is attending school on a full-time basis; and

23 (ii) the school offers an educational program or a vocational
24 training program, that is accredited or approved by the State Department of
25 Education.

26 (j) The Commission has continuing jurisdiction to:

27 (1) determine whether a surviving spouse or child has become wholly or
28 partly self-supporting;

29 (2) suspend or terminate payments of compensation; and

30 (3) reinstate payments of compensation that have been suspended or
31 terminated.

32 9-682.

33 (a) If there are no individuals who were totally dependent on the deceased
34 covered employee at the time of death, but there are individuals who were partly
35 dependent, the employer or its insurer shall pay death benefit in accordance with this
36 section.

1 (b) (1) The maximum weekly death benefit payable under this section shall
2 equal two-thirds of the average weekly wage of the deceased covered employee, but
3 may not exceed two-thirds of the State average weekly wage.

4 (2) The weekly death benefit payable under this section shall be the
5 percentage of the maximum weekly death benefit under paragraph (1) of this
6 subsection that:

7 (i) the weekly earnings of the deceased covered employee bears to
8 the combined weekly earnings of the deceased covered employee and the partly
9 dependent individuals; and

10 (ii) does not exceed the maximum weekly death benefit.

11 (c) Except as otherwise provided in this section, the employer or its insurer
12 shall pay the weekly death benefit:

13 (1) for the period of partial dependency; or

14 (2) until \$60,000 has been paid.

15 (d) (1) Subject to paragraph (2) of this subsection, if a surviving spouse who
16 is partly dependent remarries and does not have dependent children at the time of the
17 remarriage, the employer or its insurer shall make payments to the surviving spouse
18 for 2 years after the date of the remarriage.

19 (2) The total of the payments made before the remarriage may not
20 exceed \$60,000.

21 (e) (1) Except as provided in paragraphs (2) and (3) of this subsection, the
22 employer or its insurer shall continue to make payments to, or for the benefit of, a
23 surviving child until the child reaches 18 years of age.

24 (2) If a child who is 18 years old or older remains partly dependent on
25 the deceased covered employee, the employer or its insurer shall continue to make
26 payments in accordance with subsections (b) and (c) of this section.

27 (3) The employer or its insurer shall continue to make payments to, or
28 for the benefit of, a child who is 18 years old or older for up to 5 years after reaching
29 the age of 18 if:

30 (i) the child is attending school on a full-time basis; and

31 (ii) the school offers an educational program or a vocational
32 training program and the program is accredited or approved by the Maryland State
33 Department of Education.

34 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2003.